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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE: COLLEGE ATHLETE NIL  
LITIGATION

Case No. 4:20-cv-03919-CW

**STIPULATION AND [PROPOSED] ORDER  
REGARDING ADMINISTRATIVE MOTIONS  
TO SEAL RELATING TO SUMMARY  
JUDGMENT AND *DAUBERT* MOTIONS**

Hon. Claudia Wilken

Pursuant to Northern District of California Local Rule 7-12, Plaintiffs in the above-captioned action and Defendants National Collegiate Athletic Association, Atlantic Coast Conference, The Big Ten Conference, Inc., The Big 12 Conference, Inc., Pac-12 Conference, and Southeastern Conference (collectively, “Defendants,” and together with Plaintiffs, the “Parties”), by and through their respective undersigned counsel, submit the following Stipulation seeking an order adjusting the sealing procedures for the Parties’ summary judgment and *Daubert* briefing papers and related documents as set forth in Local Rule 79-5:

WHEREAS, the Court: (i) entered the Parties’ stipulation and protective order that largely incorporated the six (6) confidentiality designations in *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW, 4:14-cv-2758-CW) (herein “*Alston*”) (“Confidential Information”; “Highly Confidential – Counsel Only”; “Highly Confidential NCAA Member Financial Data”; “Conference Strictly Confidential – Outside Litigation Counsel Only”; “Network Strictly Confidential – Outside Litigation Counsel Only”; “Highly Confidential Billing Records – Outside Counsel Only”) (*see* ECF Nos. 136–37); (ii) entered the Parties’ supplemental stipulation that created two (2) additional confidentiality designations (“House CSC – Outside Litigation Counsel Only”; “House NSC – Outside Litigation Counsel Only”) (*see* ECF Nos. 147–48); (iii) entered the Parties’ second supplemental stipulation that addressed protections for information produced by NCAA member schools, colleges, universities or institutions (*see* ECF Nos. 180–81) (collectively, the “Protective Orders”); and (iv) entered the Parties’ Stipulation and Order As Modified Modifying Sealing Procedures Relating to Class Certification Briefing and Related Documents (*see* ECF No. 207);

WHEREAS, pursuant to the Court’s Order Granting Stipulation and Setting Case Schedule (“Court’s Scheduling Order”) dated April 7, 2023, Plaintiffs will file their motion for summary judgment and *Daubert* motion(s) as to Defendants’ merits experts on April 3, 2024; the Defendants will file (a) their opposition to both Plaintiffs’ motion for summary judgment and *Daubert* motion(s) and (b) their cross-motion for summary judgment and *Daubert* motion(s) as to Plaintiffs’ merits experts on May 17, 2024; Plaintiffs will file (a) their reply in support of both their motion for summary judgment and *Daubert* motion(s) as to Defendants’ merits experts and (b) their opposition to both Defendants’ cross-motion for

summary judgment and *Daubert* motion(s) on June 28, 2024; and the Defendants will file their reply in support of both their cross-motion for summary judgment and *Daubert* motion(s) as to Plaintiffs' merits experts on July 26, 2024 (*See* ECF No. 243);

WHEREAS, the Parties have sought and obtained discovery, including substantial discovery of information belonging to non-parties that is subject to protection under the Protective Orders, to facilitate the summary judgment and *Daubert* briefing and anticipate that several administrative motions to seal would be filed if the Parties strictly complied with the procedures set forth in Local Rule 79-5;

WHEREAS, the Parties anticipate that numerous Party and non-party declarations in support of any forthcoming administrative motions to seal will need to be filed, and that compliance with the procedures and timing set forth in Local Rule 79-5 will impose a substantial burden on non-parties to file multiple declarations to protect the same or similar information, and on the Court to review and evaluate such duplicative filings;

WHEREAS, the Parties previously stipulated that where information designated "Network Strictly Confidential – Outside Counsel Only" in *Alston* or "House NSC – Outside Litigation Counsel Only Information" is filed, the filing party shall provide written notice to each applicable "Network Intervenor" or "Network" (collectively, "Network Entity") at least five (5) business days in advance of filing an administrative motion to seal the designated material (*see* ECF No.136-3, 137, 148); and

WHEREAS, the Parties agree that a single combined administrative motion to seal covering all sealing requests ("Omnibus Sealing Motion") would be the most efficient way for the Court to handle all sealing issues arising from the Parties' summary judgment and *Daubert* briefing papers and related documents, and that, upon order of this Court, such Omnibus Sealing Motion shall supersede any interim sealing motions that would ordinarily accompany the Parties' opening briefs, opposition briefs, cross briefs, reply briefs, and any associated documents.

THEREFORE, the Parties hereby agree and stipulate that, upon order of this Court:

- The Parties shall file redacted versions of their summary judgment and *Daubert* briefs and related documents on or before the deadlines set forth in the Court's Scheduling Order (*see* ECF No. 243), without accompanying interim motions to seal;

- 1 • The Parties shall file the sealed versions of their summary judgment and *Daubert* briefs and  
2 related documents on or before the deadlines set forth in the Court’s Scheduling Order (*see*  
3 ECF No. 243), using the ECF Event for “Documents e-Filed Under Seal,” which will make  
4 them electronically available to the Court;
- 5 • Within five (5) business days of each filing, the filing Party shall identify for each non-filing  
6 Party the portions of the filing Party’s brief and supporting documents that contain  
7 information designated as “Highly Confidential – Counsel Only”; “Highly Confidential  
8 NCAA Member Financial Data”; “Conference Strictly Confidential – Outside Litigation  
9 Counsel Only”; “Network Strictly Confidential – Outside Litigation Counsel Only”;  
10 “Highly Confidential Billing Records – Outside Counsel Only”; “House CSC – Outside  
11 Litigation Counsel Only”; or “House NSC – Outside Litigation Counsel Only”;
- 12 • No later than five (5) days from the last filing (currently July 31, 2024), each Party shall  
13 notify any Network Entity of the inclusion of any information designated “Network Strictly  
14 Confidential – Outside Counsel Only” or “House NSC – Outside Litigation Counsel Only  
15 Information” in any of that Party’s summary judgment and *Daubert* filings;
- 16 • No later than fourteen (14) days from the last filing (currently, August 9, 2024), the Parties  
17 shall file an Omnibus Sealing Motion, and, consistent with Local Rule 79-5(f)(2), shall serve  
18 the Omnibus Sealing Motion on all Non-Party Designating Parties. The Parties shall also  
19 notify any applicable Non-Party Designating Parties of the procedures set forth in Local  
20 Rule 79-5(f)(3) and as modified herein. The Parties will cooperate in good faith to divide  
21 equitably amongst themselves the burden of notifying all Non-Party Designating Parties of  
22 the Omnibus Sealing Motion and Local Rule 79-5(f)(3); and
- 23 • No later than fourteen (14) days from the filing of the Omnibus Sealing Motion (currently,  
24 August 23, 2024), any Designating Party must file a statement or declaration in support of  
25 sealing, as set forth in Local Rule 79-5(f)(3).

Dated: March 29, 2024

Respectfully submitted,

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**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Jeffrey L. Kessler  
JEFFREY L. KESSLER

**[PROPOSED] ORDER**

The Parties must file the sealed versions of the documents at the time they file the documents in redacted form, using the ECF Event for “Documents e-Filed Under Seal,” which will make them electronically available to the Court.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. CLAUDIA WILKEN  
UNITED STATES SENIOR DISTRICT JUDGE